

Notice of Allowability

Application No.

10/528,269

Applicant(s)

MCCABE ET AL.

Examiner

Timothy J. Thompson

Art Unit

2873

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to an amendment filed on 12/29/2006.
2. ☒ The allowed claim(s) is/are 2-17, 19-32, 34-39 and 41-50.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

DETAILED ACTION

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Tim Flory on 3/26/2007.

--Claim 4, the last line has been amended as follows;

near infrared radiant energy in the range of approximately 750 nm to approximately 1100 nm.

--Claim 44, the last line has been amended as follows;

near infrared radiant energy in the range of approximately 750 nm to approximately 1100 nm.

Allowable Subject Matter

Claims 2-17, 19-32, 34-39, 41-50 are allowed.

The following is an examiner's statement of reasons for allowance: The prior art taken either singularity or in combination fails to anticipate or fairly suggest the limitations of the independent claim, in such a manner that a rejection under 35 U.S.C. 102 or 103 would be proper. The prior art fails to teach a combination of all the claimed features as presented in independent claims 4, 5, 8, 10, 17, 24, 27, 35, 37, 44, 45, 48, 49, 50 with the allowable features being near infrared radiant energy in the range of approximately 750 nm to approximately 1100 nm(claim 4, 44); the second radiant energy emitting element being operable to emit radiant energy with a peak intensity within said second preselected spectral band of radiant energy(claim 5); the mirror element has at least two substantially reflective metallic layers, each of said at least two substantially reflective metallic conductive layers being sandwiched between a respective pair of substantially transparent non-metallic layers(claim 8); layer sandwiched between a respective pair of substantially transparent non-metallic layers, each of said substantially transparent non-metallic layers and said substantially reflective metallic layer having a selected refractive index and a selected physical thickness such that said mirror element is selectively spectrally tuned to substantially transmit at least one preselected spectral(claim 10); at least one adhesion enhancement and passivation layer disposed between said reflective metallic layer and at least one of said transparent non-metallic layers to increase the corrosion resistance of said reflective metallic layer and to enhance the adhesion and the mechanical stability of said reflective metallic layer(claim 17); side of said regions, wherein said transfective reflector provides at least 15 percent transmissivity of light at or near said

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emitted spectral characteristic and provides at least 60 percent photopic reflectance of other light(claim 24); transflective reflector comprises at least two substantially reflective metallic conductive layers, each of said at least two substantially reflective metallic conductive layers being sandwiched between a respective pair of substantially transparent semi-conductive non-metallic layers disposed between said electrochromic medium and said second substrate(claim 27, 48); reflectivity being greater than said second reflectivity, wherein said first reflectivity comprises at least approximately 60 percent(claim 35); and a substantially reflecting metallic conductive layer sandwiched between said first and second substantially transparent semi-conductive layers(claim 37); the at least one preselected spectral band comprises first and second preselected bands of radiant energy, said radiant energy emitting element comprises first and second radiant energy emitting elements, said first radiant energy emitting element being operable to emit radiant(claim 45); anti-reflective stack of layers at said rearward surface, said anti-reflective stack being spectrally tuned to minimize reflectance of radiant energy at said preselected spectral band(claim 49); the substrate is prismatic(claim 50). Therefore claims 2-17, 19-32, 34-39, 41-50 are allowed.

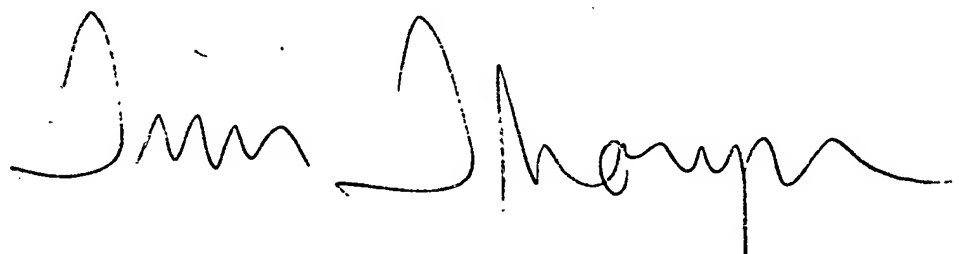
Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy J. Thompson whose telephone number is (571) 272-2342. The examiner can normally be reached on 8:30 AM - 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Mack can be reached on (571) 272-2333. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Tim Thompson', with a stylized, cursive script.

TIMOTHY THOMPSON
PRIMARY EXAMINER